

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

December 9, 2011

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: REQUEST APPROVAL TO INITIATE THE COMPETITIVE SEALED PROPOSAL PROCESS, AUTHORIZE THE CHAIRPERSON TO ISSUE A REQUEST FOR PROPOSALS, AND AWARD AND EXECUTE A CONTRACT TO BUILD APPROXIMATELY 10 MILES OF UNGULATE-PROOF FENCE ON MAUNA KEA TO PROTECT PALILA CRITICAL HABITAT.

AND

REQUEST APPROVAL OF DECLARATION OF EXEMPTION FROM CHAPTER 343, HRS, ENVIRONMENTAL ASSESSMENT REQUIREMENTS FOR THE PROJECT.

This Board Submittal requests approval to issue a Request for Proposals (RFP) under the competitive sealed proposal process and authorizes the Chairperson to issue the RFP and award and execute a contract to build of approximately 10 miles of ungulate proof fence on Mauna Kea to protect Palila habitat.

BACKGROUND:

THE PALILA

The Palila is a finch-billed Hawaiian honeycreeper currently found only on Mauna Kea. Loss and degradation of māmane forests, mostly by non-native ungulates, has resulted in a dramatic range contraction. Today, almost all Palila are restricted to the southwestern slope of Mauna Kea in an area of <25 square miles. The population has been steadily declining since 2003 and data from surveys conducted in January 2011 resulted in an estimate of 1,263 individuals.

The species was listed as endangered by the U.S. Fish and Wildlife Service (USFWS) in 1967 and the State of Hawai'i in 1982 (USFWS 2006). Critical habitat (CH) (60,188 ac) was designated on August 8, 1977, and includes all land area on Mauna Kea from approximately 6,500 to 10,075 feet in elevation, mostly in the Mauna Kea Forest Reserve. Federal court rulings

in 1979, 1987, and 1998 mandated the removal of all sheep and goats from CH. The Division of Forestry and Wildlife (DOFAW) has conducted periodic removal of sheep via aerial shooting since July 1987, and maintains a liberal hunting policy across CH.

FUNDING AND PROPOSED MANAGEMENT

In August of 2008, the USFWS provided DOFAW with \$900,000 to initiate management to protect Palila CH. On January 21, 2009 a meeting with partners determined that the most effective strategy to protect the Palila would be to fence almost all CH, followed by the removal of all sheep and goats. Based on this, a plan was drafted that outlined the fence alignment, the sequence of fence construction, the fence specifications and required materials, and the criteria for selecting a contractor to build a 59 mile fence that would enclose 94% of CH. Since that time the fence line has been modified and we are now proposing to enclose 91% of critical habitat with 52 miles of fence which includes 17 miles of recently built (see below) or previously built fence. On October 29, 2009 this plan was approved by the USFWS and DOFAW representatives. An RFP was drafted and posted on the state procurement office website from May 18, 2010 through June 15, 2010. The Board authorized the contract to build the first segment on July 8, 2010. Construction was initiated in late November 2010 at a cost of \$440,600 and was completed in April, 2011. In July 2010, the USFWS provided an additional \$1,347,000 for additional fencing. On January 13, 2011, the board approved building the second segment. An RFP was drafted and posted on the state procurement office website from August 9, 2011 through September 7, 2011. In July 2011, the USFWS provided an additional \$1,504,000 for fence construction. This segment will be initiated in January 2012 at a cost of \$2,032,176.

DISCUSSION:

Based on the requirements and special conditions of this procurement, DOFAW recommends that a competitive sealed proposal process be used for source selection. Such an approach will be the most advantageous procurement process for the solicitation because:

- 1) The primary consideration for the determination of the awards for this RFP is not price.
- 2) The contract will be other than a fixed-type price.
- 3) Oral or written discussion may need to be conducted with the Applicants concerning technical and price aspects of their proposals.
- 4) Applicants may need the opportunity to revise their proposals, including price.
- 5) To determine the most advantageous offering to the State, awards need to be based on a comparative evaluation of technical capability, experience, price, and understanding of the project as stated in the request for proposal.

Pursuant to HAR 3-122-43, a determination by the Department procurement officer must be made for the use of the competitive sealed proposal process over the competitive sealed bidding process when the competitive sealed bidding process is neither practicable nor advantageous to the State. Additionally pursuant to HAR § 3-122-45, a determination must be made by the procurement officer that an evaluation committee, selected in writing by the procurement officer, shall evaluate the competitive sealed proposals. The Division recommends the use of an evaluation committee because it will promote an objective review, evaluation, and ranking of

proposals and allow for the selection of the most qualified proposal. Further the evaluation committee must consist of at least three government employees with sufficient qualification in the area of the goods or services to be procured; DOFAW recommends the following individuals:

- Nick Agorastos, Big Island Natural Area Reserve Specialist, DOFAW (State)
- Lisa Ferentinos, WPP planner, DOFAW (State)
- David Leonard, Wildlife Biologist, PCSU (State)
- Jay Nelson, Wildlife Biologist, USFWS (Federal)

Each committee member will individually evaluate each proposal and assign a score (0 – 100 points) based on four criteria: technical capabilities of the offeror (40 points), bid price (25 points), experience (25 points), and understanding of the project (10 points). The elements of each criterion and a formula to calculate the pricing score will be presented in the RFP.

Committee members will fill out a standard form for each proposal. For any criteria where the full points are not awarded reviewers will provide the reason(s) why the maximum points were not awarded (i.e., detail why the proposal was deficient). The offeror with the highest mean score will be awarded the contract.

To expedite a contract for this procurement, DOFAW requests that the Board delegate authority to the Chairperson to issue the RFP and award and execute the contract for goods and services based on the recommendations of the evaluation committee and other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State. Additionally, should any of the committee members above be unable to participate, DOFAW requests that the Board delegate authority to the Chairperson to appoint alternates or recommend that the committee be reduced by one member should the need arise.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the requirements of Chapter 343, HRS, Hawaii Administrative Rule Section 11-200-8(6), the Exemption List for the Division of Forestry and Wildlife, Department of Land and Natural Resources as reviewed and concurred upon by the Environmental Council on June 12, 2008, and the Exemption List for the Department of Land and Natural Resources as reviewed and concurred upon by the Environmental Council on December 4, 1991 (Docket No. 91-EX-2), the subject project is exempt from the preparation of an environmental assessment pursuant to the following exemption classes:

From the DOFAW Exemption List:

Exemption Class I, “Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.”

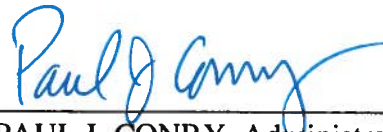
Refer to attached Exemption Notification labeled Exhibit A.

RECOMMENDATIONS:

That the Board:

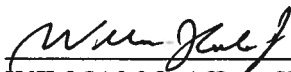
- 1) Declare that, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- 2) Approves the use of:
 - a. A competitive sealed proposal process for a solicitation to build approximately 10 miles of ungulate proof fence on Mauna Kea to protect Palila Critical Habitat.
 - b. An evaluation committee comprised of the individuals identified above to evaluate and select the competitive sealed proposal that is most advantageous to the state.
- 3) Delegates authority to the Chairperson to:
 - a. Issue the RFP.
 - b. Award and execute a contract for goods and services, subject to the availability of funds and review and approval by the Department of the Attorney General.
 - c. Appoint evaluation committee alternates or recommend that the committee be reduced by one member should the need arise.

Respectfully submitted,



PAUL J. CONRY, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson
Board of Land and Natural Resources